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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/147,938    03/24/99    YOSHIKAWA    G    177/529398

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IM22/1126

EXAMINER

SAYALA, C

ART UNIT

PAPER NUMBER

1761

DATE MAILED:

11/26/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/147938

Applicant(s)

Yoshikawa et al

Examiner

Ayala

Group Art Unit

1761

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-8 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-8 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☒ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 4
- ☐ Interview Summary, PTO-413
- ☒ Notice of References Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fodge et al (US Patent 5429828).

Fodge et al disclose a feed composition which contains copra that has been treated with a hemicellulase enzyme. See col. 2, lines 15-20, See col. 3, lines 1-5, col. 6, lines 54-58. The reference does not teach the amounts recited in claims 2, 4, 6 and 8. However, at col. 5, lines 1-25, the reference indicates that it was known in the art at the time the invention was made that enzyme activity can be measured, and enzyme activity varies according to the source it is derived from. See for instance, col. 4, lines 1-5. It would have been within the skill of the person of ordinary skill in the art at the time the invention was made to adjust amounts of enzyme used with the copra shown by the patentees, after determining its activity and its degree of purity.

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3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-8 are rejected under 35 U.S.C. 102(a) as being anticipated by JP 11018791.

The reference teaches the claimed invention, which is, the addition of hemicellulase to copra to degrade it to a mannose containing product useful as a feed. Amounts claimed are within the scope of the reference details.

5. Claims 1, 3, 5 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 59045833 or JP 08173055.

The reference teaches the copra mannose-containing feed.

6. Claims 2, 4, 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 59045833 or JP 08173055.

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The references are as discussed above. Amounts claimed are not shown per se, by the references. However, depending on the activity of the enzyme, wherein the measurement of such was known in the art at the time the invention was made (see paragraph 2 above) and the source it is derived from, it would have been within the skill of the routineer to adjust amounts according to the level of degradation needed and such modifications would have been obvious to the person of ordinary skill in the art.

7. Claims 1, 3, 5 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by GB 2215980.

The reference shows treating copra with an enzyme and obtaining a mannose containing product that can be used as feed. See page 4, lines 25+, page 6, lines 15+ and the abstract.

8. Claims 2, 4, 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over GB 2215980.

The reference is as discussed above. Amounts claimed are not shown per se, by the reference. However, depending on the activity of the enzyme, wherein the measurement of such was known in the art at the time the invention was made (see paragraph 2

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above) and the source it is derived from, it would have been within the skill of the routineer to adjust amounts according to the level of degradation needed and such modifications would have been obvious to the person of ordinary skill in the art.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

See JP 11137288 which shows the entire invention.

10. Any inquiry concerning this communication should be directed to Examiner C. Sayala at **Group 1761**, telephone number (703) 308-3035. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661. The fax phone number for this Group is (703)305-3599.

  
C. Sayala  
Primary Examiner  
Group 1761.